

In The Matter of the Request for )  
Proposals and the Review and Approval )  
of Any Proposed Contract(s) for the )  
Purchase of Wind-Generated Renewable ) PSC Docket No. \_\_\_\_\_  
Energy Credits by Delmarva )  
Power & Light Company )  
)  
(filed November \_\_\_\_, 2016) )

Delmarva Power & Light Company (“Delmarva Power”), by and through its undersigned counsel, hereby files this petition (the “Petition”) requesting the Commission to open a docket for the purpose of: (1) approving the issuance of a request for proposals, and (2) the future review and potential approval of any contracts for the purchase of renewable energy credits arising out of the request for proposals. In support of its request, Delmarva Power provides as follows:

1. This matter arises out of the approval by the Delaware Public Service Commission (the “Commission”) of the merger between Exelon Corporation (“Exelon”) and Pepco Holdings, Inc. (“PHI”).

3. On June 18, 2014, Exelon, PHI, Delmarva Power, and other related entities (collectively, the “Joint Applicants”) filed an application (the “Merger Application”) with the Delaware Public Service Commission (the “Commission”) seeking approval of the proposed

Merger of Exelon and PHI (the “Merger”) and the resulting change in control of Delmarva Power, pursuant to 26 Del. C. §§ 215 and 1016. The Commission opened PSC Docket No. 14-193 to address the Merger Application.

4. Commission Staff (“Staff”), the Division of the Public Advocate (the “Public Advocate”) and multiple intervenors engaged in substantial discovery and filed testimony in Docket No. 14-193.

5. Staff, the Public Advocate, the Joint Applicants and intervenors engaged in lengthy and detailed settlement discussions and eventually agreed to the terms of a proposed settlement (the “Amended Settlement Agreement”).

6. After evidentiary hearings, the Commission approved the Amended Settlement Agreement and the Merger.<sup>1</sup>

7. Paragraph 84 of the Amended Settlement Agreement contains an obligation for Delmarva Power to issue competitive requests for proposals (“RFPs”) to purchase wind Renewable Energy Credits (“RECs”) on commercially reasonable terms in three tranches. The first tranche will be for RECs from one or more wind renewable generating facilities with an aggregate capacity of up to 40 MW (*nameplate*) beginning in the compliance years 2017-2018.<sup>2</sup>

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<sup>1</sup> See, Order No. 8746, June 2, 2015.

<sup>2</sup> Paragraph 84 of the Merger Settlement Agreement provides as follows:

“For the purpose of meeting the renewable portfolio standards under current law, Delmarva Power will issue a competitive request for proposals (“RFP(s)”) to purchase wind Renewable Energy Credits (“RECs”) on commercially reasonable terms in three tranches: (1) the first for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (*nameplate*) beginning in the compliance years 2017-2018 for a term of 10 to 15 years; (2) the second for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (*nameplate*) beginning in the compliance years 2019-2020 for a term of 10 to 15 years; and (3) the third for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (*nameplate*) beginning in the compliance years 2023-2024 for a term of 10 to 15 years. The Settling Parties agree that if circumstances or conditions change (including but not limited to a material change in the projected load of Delmarva Power such that fewer RECs are required, or a substantial change in the cost of RECs through the spot market such that additional spot-market purchases in lieu of long-term contract

### **The Reason for Filing This Petition Now**

8. There are two components of the process of complying with the wind RFP commitment contained in paragraph 84 of the Amended Settlement Agreement which will require Commission approval:

- a. Initial approval to issue the RFP;<sup>3</sup> and
- b. Commission review and potential approval of any proposed contracts resulting from the RFP.<sup>4</sup>

9. Delmarva Power has discussed with Commission Staff, the Public Advocate and MAREC<sup>5</sup> the intent and meaning of the initial Commission approval set forth in Paragraph 84, which requires Commission “approval prior to issuance” of the RFP. Delmarva Power, Staff, the Public Advocate and MAREC all agree that the Commission approval needed for issuance of the RFP is intended to be similar to the Commission’s approval of other notice-like documents that are generally issued when opening a Commission docket. For example, when the Commission issues an opening order for a base rate case, it will review and approve a form of public notice to

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purchases would be prudent), they will work in good faith with each other and present any proposed modification to the Commission as may be warranted by those changed conditions. The primary factor under the RFP bid process will be price, and all costs associated with the REC agreement(s) will flow through the Renewable Portfolio Compliance Rate surcharge currently in place to assure complete and timely cost recovery by Delmarva Power. Delmarva Power, with the concurrence of the Renewable Energy Task Force, shall file any such RFP pursuant to this paragraph with the Commission for its review and required approval prior to issuance. Any proposed contract(s) resulting from the RFP shall also be submitted to the Commission for final review and approval before execution.”

<sup>3</sup> Paragraph 84 of the Merger Settlement Agreement provides: “Delmarva Power . . . shall file any such RFP pursuant to this paragraph with the Commission for its review and required approval prior to issuance.” (*emphasis added*). See footnote 1.

<sup>4</sup> Paragraph 84 of the Merger Settlement Agreement provides: “[a]ny proposed contract(s) resulting from the RFP shall also be submitted to the Commission for final review and approval before execution.” (*emphasis added*). See footnote 1.

<sup>5</sup> MAREC stands for “Mid-Atlantic Renewable Energy Coalition.” MAREC was an intervenor in the Merger Docket and a party to the Merger Settlement Agreement.

be used to advertise the docket.<sup>6</sup> Normally, a proposed public notice is provided by Staff or the petitioner and after review by the Commission, the public notice is approved by the Commission as part of the opening order for the docket. Commission approval of the public notice is issued upon opening of the docket and requires no input by the public or potential intervenors. Approval of the requested rate change; however, which happens later in the process, does require both the issuance of a public notice and an evidentiary proceeding.

10. Delmarva Power, Staff, the Public Advocate and MAREC all agree that the Commission approval to issue the RFP is similar to that of the Commission approval of a public notice in a rate case, which means that the Commission should review, and if acceptable, approve the RFP for issuance as part of the opening order for this docket. Similar to the approval of new rates in a base rate case, however, any Commission review and potential “approval” of a proposed REC purchase contract resulting from the RFP will require an evidentiary proceeding as required by Delaware law.<sup>7</sup>

11. Pursuant to paragraph 84 of the Amended Settlement Agreement, Delmarva Power has obtained the concurrence of the Renewable Energy Task Force with respect to the proposed form of the RFP. A copy of correspondence from DNREC<sup>8</sup>, which confirms the concurrence of the Renewable Energy Task Force, is attached as “Attachment A.”

12. Delmarva has attached a confidential summary of the proposed RFP as “Attachment B” and a confidential copy of the full proposed RFP as “Attachment C.” Delmarva Power has filed both the summary and the proposed RFP as confidential in order to ensure that

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<sup>6</sup> See, 26 Del.C. § 303 (b).

<sup>7</sup> 26 Del.C. § 1007 (b) and 29 Del. C. § 10124.

<sup>8</sup> DNREC is short for the State Department of Natural Resources and Environmental Control, a party to the merger proceeding.

no potential bidder might have an unfair competitive advantage over other bidders by virtue of seeing the RFP before it is released to all potential bidders.<sup>9</sup>

13. A proposed form of opening order is attached hereto as "Attachment D."

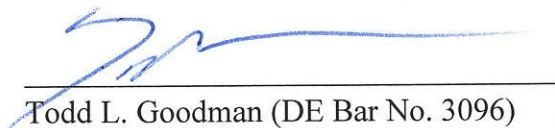
14. Consistent with the provisions of Paragraph 84 of the Amended Merger Agreement, Delmarva Power will seek approval of any proposed REC purchase contract(s) resulting from the RFP through a subsequent filing under this docket. Such a filing will include, among other things:

- a. an application and prefiled testimony supporting the requested approval of any proposed REC purchase contract(s); and
- b. evidentiary hearings after public notice.<sup>10</sup>

**WHEREFORE**, Delmarva Power respectfully requests that the Commission issue an order to:

- a. Open the docket;
- b. Approve the RFP for issuance; and
- c. Keep the docket open for the purpose of review and potential approval of any proposed REC purchase contract(s) resulting from the RFP.

Respectfully Submitted,  
Delmarva Power & Light Company



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Dated:

  
<sup>9</sup> See, Commission Rule of Practice and Procedure 1.11, 26 Del. Admin. C. § 1001.

<sup>10</sup> 26 Del.C. § 1007 (b) and 29 Del. C. § 10124.

## **Attachment A**

**From:** "Noyes, Thomas G. (DNREC)" <[Thomas.Noyes@state.de.us](mailto:Thomas.Noyes@state.de.us)>  
**Date:** October 14, 2016 at 2:33:25 PM EDT  
**To:** "Glenn Moore ([glenn.moore@delmarva.com](mailto:glenn.moore@delmarva.com))" <[glenn.moore@delmarva.com](mailto:glenn.moore@delmarva.com)>  
**Cc:** "Underwood, Robert (DNREC)" <[Robert.Underwood@state.de.us](mailto:Robert.Underwood@state.de.us)>, "Howatt, Robert (DOS)" <[Robert.Howatt@state.de.us](mailto:Robert.Howatt@state.de.us)>  
**Subject:** [EXTERNAL] Renewable Energy Taskforce meeting October 14, 2016

Glenn:

At the Renewable Energy Taskforce meeting of October 14, 2016, Dale Davis moved that the Taskforce concur with the Delmarva Power application to the Public Service Commission to issue an RFP for the first tranche of 40 MW of wind power. Glenn Moore seconded the motion. The Taskforce voted to adopt the motion unanimously.

In a related motion, Andrea Maucher moved that the Taskforce request that Delmarva keep the Taskforce informed of the RFP process going forward. Glenn Moore seconded the motion. The Taskforce voted to adopt the motion unanimously.

These two motions will be reflected in the Taskforce minutes.

Please let me know if you have any question on these points.

Tom

Thomas Noyes  
Principal Planner for Utility Policy  
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Division of Energy & Climate  
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Fax: (302)739-1840

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**Confidential Attachment B Filed Under Seal Pursuant to  
Commission Rule of Practice and Procedure 1.11  
26 Del. Admin. C. § 1001**



**Confidential Attachment C Filed Under Seal Pursuant to  
Commission Rule of Practice and Procedure 1.11  
26 Del. Admin. C. § 1001**

## **Attachment D**

### Proposed Form of Order

In the Public Service Commission of the State of Delaware

In The Matter of the Request for )  
Proposals and the Review and Approval )  
of Any Proposed Contract(s) for the )  
Purchase of Wind-Generated Renewable ) Docket No. \_\_\_\_\_  
Energy Credits by Delmarva )  
Power & Light Company )  
(filed November \_\_\_\_, 2016) )

## Order

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2016:

WHEREAS, Exelon Corporation ("Exelon") and Pepco Holdings, Inc. ("PHI") executed an Agreement and Plan of Merger on April 29, 2014, and an Amended and Restated Agreement and Plan of Merger on July 18, 2014; and

WHEREAS, on June 18, 2014, Exelon, PHI, Delmarva Power & Light Company ("Delmarva"), and other related entities (collectively, the "Joint Applicants") filed an application (the "Merger Application") with the Commission seeking approval of the proposed Merger of Exelon and PHI (the "Merger") and the resulting change in control of Delmarva Power, pursuant to 26 Del. C. §§ 215 and 1016. The Commission opened PSC Docket No. 14-193 to address the Merger Application; and

WHEREAS, Commission Staff ("Staff"), the Division of the Public Advocate ("Public Advocate") and multiple intervenors engaged in substantial discovery and filed testimony in Docket No. 14-193; and

## Proposed Form of Order

WHEREAS, Staff, the Public Advocate, the Joint Applicants and intervenors engaged in lengthy and detailed settlement discussions and eventually agreed to the terms of a proposed settlement (the "Amended Merger Settlement Agreement"); and

WHEREAS, after evidentiary hearings, the Commission approved the Amended Merger Settlement Agreement and the Merger;<sup>1</sup> and

WHEREAS, Paragraph 84 of the Amended Merger Settlement Agreement contains an obligation for Delmarva Power to issue competitive requests for proposals ("RFPs") to purchase wind Renewable Energy Credits ("RECs") on commercially reasonable terms in three tranches. The first tranche will be for RECs from one or more wind renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in compliance years 2017-2018;<sup>2</sup> and

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<sup>1</sup> See, Order No. 8746, June 2, 2015.

<sup>2</sup> Paragraph 84 of the Merger Settlement Agreement provides as follows:

"For the purpose of meeting the renewable portfolio standards under current law, Delmarva Power will issue a competitive request for proposals ("RFP(s)") to purchase wind Renewable Energy Credits ("RECs") on commercially reasonable terms in three tranches: (1) the first for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the compliance years 2017-2018 for a term of 10 to 15 years; (2) the second for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the compliance years 2019-2020 for a term of 10 to 15 years; and (3) the third for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the

## Proposed Form of Order

WHEREAS, there are two components of the process of complying with the wind RFP commitment contained in paragraph 84 of the Amended Merger Settlement Agreement which require Commission approval: (a) initial approval to issue the RFP;<sup>3</sup> and (b) Commission review and potential approval of any proposed contracts resulting from the RFP;<sup>4</sup> and

WHEREAS, the Amended Merger Settlement Agreement also requires Delmarva Power to obtain the concurrence of the Renewable Energy Task Force with respect to the proposed form of

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compliance years 2023-2024 for a term of 10 to 15 years. The Settling Parties agree that if circumstances or conditions change (including but not limited to a material change in the projected load of Delmarva Power such that fewer RECs are required, or a substantial change in the cost of RECs through the spot market such that additional spot-market purchases in lieu of long-term contract purchases would be prudent), they will work in good faith with each other and present any proposed modification to the Commission as may be warranted by those changed conditions. The primary factor under the RFP bid process will be price, and all costs associated with the REC agreement(s) will flow through the Renewable Portfolio Compliance Rate surcharge currently in place to assure complete and timely cost recovery by Delmarva Power. Delmarva Power, with the concurrence of the Renewable Energy Task Force, shall file any such RFP pursuant to this paragraph with the Commission for its review and required approval prior to issuance. Any proposed contract(s) resulting from the RFP shall also be submitted to the Commission for final review and approval before execution."

<sup>3</sup> Paragraph 84 of the Merger Settlement Agreement provides: "Delmarva Power . . . shall file any such RFP pursuant to this paragraph with the Commission for its review and required approval prior to issuance." (*emphasis added*). See footnote 1.

<sup>4</sup> Paragraph 84 of the Merger Settlement Agreement provides: "[a]ny proposed contract(s) resulting from the RFP shall also be submitted to the Commission for final review and approval before execution." (*emphasis added*). See footnote 1.

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the RFP.<sup>5</sup> The Renewable Energy Task Force has provided the necessary concurrence; and

WHEREAS, Delmarva, Staff, the Public Advocate and MAREC<sup>6</sup> agree that the draft form of RFP provided to the Commission for its review is consistent with the requirements of Paragraph 84 of the Amended Merger Settlement Agreement and as such, should be approved for issuance; and

WHEREAS, the Commission, having carefully reviewed the RFP and the positions of the parties, hereby orders as follows:

**NOW THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF NOT  
FEWER THAN THREE COMMISSIONERS**

1. That this docket be opened to address the three tranches of RFPs to be conducted pursuant to Paragraph 84 of the Amended Merger Settlement Agreement.

2. That the first tranche RFP is approved for issuance by Delmarva Power.

3. That consistent with the provisions of Paragraph 84 of the Amended Merger Settlement Agreement, Delmarva Power will

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<sup>5</sup> Paragraph 84 of the Merger Settlement Agreement provides: "...Delmarva Power, with the concurrence of the Renewable Energy Task Force, shall file any such RFP pursuant to this paragraph with the Commission..."

<sup>6</sup> MAREC stands for "Mid-Atlantic Renewable Energy Coalition." MAREC was an intervenor in the Merger Docket and a party to the Merger Settlement Agreement.

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seek approval of any proposed REC purchase contract(s) resulting from the RFP through a subsequent filing under this docket.

4. That such approval filing(s) will include, among other things: (a) an application and prefiled testimony supporting the requested approval of any proposed REC purchase contract(s), and (b) evidentiary hearings after public notice.<sup>7</sup>

5. That the Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

ATTEST:

\_\_\_\_\_  
<sup>7</sup> 26 Del.C. § 1007 (b) and 29 Del. C. §10124.

Confidentiality Attestation

Pursuant to Commission Rule of Practice and Procedure 1.11, the undersigned does hereby attest that in order to avoid an unfair advantage to one or more potential RFP bidders, the Summary of Request for Proposals ("RFP") and the RFP are not subject to inspection by either the public or by parties other than Commission Staff and the Division of the Public Advocate at this time and will not be subject to inspection until such time as the RFP is issued.

  
\_\_\_\_\_  
Todd L. Goodman